

EXHIBIT D

CIVIL COURT OF THE CITY OF NEW YORK
NEW YORK COUNTY

HOUSING PART

X

L & T Index No. 317051-22

FIFTH AND 106TH ST. ASSOCIATES, L.P.,
Petitioner (Landlord),

-against-

MARK HAYNES,
Respondents (Tenant)

X

VERIFIED ANSWER

Mark Haynes, Respondent pro se, interposes the following answers to the petition:

follows:

- 1) Denies every allegation in the paragraphs marked "2", "6", "8", "9" and "10".
- 2) Denies knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked "1", "7", and "11".
- 3) Admits to the allegations set forth in paragraphs marked "3", "4" and "5".

FIRST AFFIRMATIVE DEFENSE

- 4) Petitioner failed to notify the Court that they commenced an action for non payment of rent in NYS Supreme Court New York County entitled *FIFTH AND 106TH ASSOCIATES v MARK HAYNES*, Index#15105/2022 on or about February 23, 2022. Respondent answered and counterclaimed. the Complaint.
On or about December 15, 2022 Respondent submitted an Order to Show Cause (OSC) motion to combine the Civil Court case under the Supreme Court action. The OSC was signed by Supreme Court Justice Honorable Alexander M. Tisch on December 19, 2022 with a hearing date that was scheduled for February 22, 2023. The Petitioner than moved for a default judgment in this Court BEFORE THE OSC hearing. **Exhibit A**

SECOND AFFIRMATIVE DEFENSE

- 5) Petitioner failed to state a cause of action against Defendant upon which relief may be granted. Defendants rent was paid through NYS Emergency Rental Assistance Program (ERAP).

THIRD AFFIRMATIVE DEFENSE

- 6) Petitioner failed to provide legally sufficient evidence to support claim. Petitioner failed to provide a copy of alleged lease contract.

FORTH AFFIRMATIVE DEFENSE

- 7) The cause of action set forth in Petitioner's Complaint is in violation of the Statute of Frauds. Petitioner failed to comply with NYS Homes and Community Renewal rent registration requirements; NYS rent stabilization laws; Housing and Urban Renewal (HUD). Respondent currently has a pending Rent Overcharge Application Complaint # D132675B with NYS Homes and Community Renewal.

Exhibit B**COUNTERCLAIM**

- 8) Petitioner unlawfully enriched itself by filing an erroneous/inflated rent request to claim to ERAP. Respondent demands that Petitioner apply the overpayment towards Respondent's future rent. **Exhibit C**

WHEREFORE, Defendant respectfully requests that an Order be granted:

- Dismissing Petitioner's Complaint in its entirety because they failed to serve a five day notice to cure as per the NYS Tenant Protection Act of 2019;
- Dismissing Petitioner's Petition that was filed in New York Housing Court, L&T Part, Index# 054860/2020 that was never served on Defendant;

- A forensic accounting of actual rent due Petitioner, if any, and applying the overpayment in the approximate amount of \$26,713 towards Respondent's actual monthly rent;
- and such other and further relief as the Court deems just and appropriate.

New York, New York
February 27, 2023


MARK HAYNES, Respondent Pro se

VERIFICATION

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

Mark Haynes, being duly sworn, deposes and says: That I am the Respondent pro se in this proceeding, that I have read the foregoing answer and know the contents thereof; that the same is true to my own knowledge, except to matters therein stated to be alleged on information and belief; and that as to those matters I believe them to be true.


MARK HAYNES

Sworn to me before this

27 day of February, 2023

NOTARY PUBLIC

ALEKSANDR ABDURAGHMANOV
Notary Public, State of New York
No. 01AB6143871
Qualified in Queens County
Certificate Filed in New York County
Commission Expires 04/17/2026

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VERIFIED ANSWER

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